

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JUAN MELENDEZ,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 08-cv-475-WDS
vs.)	
)	CRIMINAL NO. 01-cr-30172
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

STIEHL, District Judge:

This matter is before the Court on Petitioner's motion for relief pursuant to 28 U.S.C. § 2255. Following a jury trial, Petitioner was found guilty on two counts involving the distribution of marijuana and cocaine. He was sentenced to 300 months imprisonment, five years supervised release, a fine of \$1300, a special assessment of \$200, and a \$15 million forfeiture. On direct appeal, he challenged his conviction and sentence on the grounds of the sufficiency of the evidence, jury instructions regarding buyer-seller, his sentence, and the amount of the forfeiture. The Seventh Circuit affirmed his conviction, but issued a limited remand for reconsideration of the sentence in light of *United States v. Booker*, 125 S.Ct. 738 (2005). *United States v. Melendez*, 401 F.3d 851 (7th Cir. 2005). Upon reconsideration, this Court found that the 300-month term of imprisonment was not unreasonable and so advised the Seventh Circuit (Doc. 790, criminal case). The Seventh Circuit subsequently issued its final mandate, affirming the conviction and sentence. *United States v. Melendez*, 467 F.3d 606 (7th Cir. 2006), *cert. denied*, 127 S.Ct. 3076 (2007).

Petitioner then filed the instant motion under § 2255. In this motion, he states that in conjunction with the reconsideration of his sentence, Counsel merely focused on his relevant conduct. Thus, he argues that Counsel was ineffective in failing to challenge the presumptive reasonableness of his sentence. He also argues that the Counsel failed to press the Court to consider all possible factors under 18 U.S.C. § 3553(a).

The Court **ORDERS** the Government to file a response to Petitioner's motion within **THIRTY (30) DAYS** of the date of this Order. The Government shall, as part of its response, attach all relevant portions of the record.

IT IS SO ORDERED.

DATED: January 6, 2009.

s/ WILLIAM D. STIEHL
DISTRICT JUDGE